

---

**By: Delegates Stup, Nathan-Pulliam, Elliott, Stull, Brinkley, Snodgrass, Hecht, McKee, Edwards, Harkins, D. Hughes, Donoghue, Poole, Workman, Watson, O'Donnell, Hubbard, Kirk, C. Davis, Boston, C. Mitchell, Love, Harrison, Fulton, Fry, Willis, Hutchins, Klausmeier, Stocksdale, Frush, and Getty**

Introduced and read first time: January 27, 1997

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Fairness in Milk Marketing Act of 1997**

3 FOR the purpose of implementing certain recommendations of the Task Force on  
4 Maryland's Dairy Industry; establishing an Advisory Committee on Milk Pricing;  
5 specifying the membership and the terms of members; requiring the Department of  
6 Agriculture to provide staff support to the Committee; requiring the Secretary of  
7 Agriculture to consult with the Committee on certain matters; authorizing the  
8 Secretary to establish by regulation certain fluid milk marketing areas, certain  
9 presumed costs to certain distributors and retail sellers, and certain producer prices  
10 for certain milk; requiring the Secretary to adopt regulations establishing a formula  
11 for determining the presumed cost; requiring the Secretary to establish by  
12 regulation a certain accounting system for certain distributors for certain purposes;  
13 requiring certain distributors to adopt a certain accounting system for certain  
14 purposes; requiring distributors of fluid milk to be licensed by the Secretary;  
15 authorizing the Secretary to renew, revoke, or suspend a license under certain  
16 circumstances; requiring the Secretary of Agriculture and the Secretary of the  
17 Department of Health and Mental Hygiene to coordinate certain matters related to  
18 the license and a certain permit under certain circumstances; requiring the  
19 Secretary of Agriculture to audit certain records of milk distributors; prohibiting  
20 certain persons from buying or selling certain milk for prices below certain  
21 presumed costs except under certain circumstances; prohibiting certain persons  
22 from buying or selling certain milk below a certain producer price; authorizing the  
23 Secretary to seek an injunction for certain purposes; authorizing the Secretary to  
24 impose certain civil penalties; providing for judicial review of certain decisions made  
25 by the Secretary under certain circumstances; authorizing the Secretary to authorize  
26 certain agencies from other states to examine certain books and records in the  
27 possession of the Secretary under certain circumstances; establishing a Maryland  
28 Milk Fund; providing for the collection and disposition of certain funds; authorizing  
29 a certain milk processor to establish a certain sell-by period for certain milk under  
30 certain circumstances; providing for the termination of a certain portion of this Act;  
31 providing that existing obligations or contract rights may not be impaired by this  
32 Act; defining certain terms; and generally relating to the implementation of  
33 recommendations of the Task Force on Maryland's Dairy Industry.

2

1 BY adding to  
2 Article - Agriculture  
3 Section 2-801 through 2-810 to be under the new subtitle "Subtitle 8. State Milk  
4 Pricing Policy"  
5 Annotated Code of Maryland  
6 (1985 Replacement Volume and 1996 Supplement)

7 BY adding to  
8 Article - Health - General  
9 Section 21-415(c) and 21-418(e)  
10 Annotated Code of Maryland  
11 (1996 Replacement Volume and 1996 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article - Health - General  
14 Section 21-426  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1996 Supplement)

17 Preamble

18 WHEREAS, Milk is and has been a major product and source of economic strength  
19 and pride for the State of Maryland; and

20 WHEREAS, Milk is a nutritious dietary staple and component of thousands of food  
21 products Marylanders enjoy; and

22 WHEREAS, Milk is essential to the health and development of Maryland's  
23 children; and

24 WHEREAS, Milk is the primary input for a \$1 billion-plus State dairy industry; and

25 WHEREAS, Milk manufacturing plants employ over 1,900 people throughout the  
26 State; and

27 WHEREAS, The maintenance of successful dairy farms is consistent with the  
28 State's emphasis on controlled growth and agricultural land preservation; and

29 WHEREAS, The neighboring states of Virginia and Pennsylvania have highly  
30 regulated milk industries, with minimum guaranteed prices paid to producers and  
31 distributors that provide a competitive advantage for producers in those states both  
32 within the region as a whole and in the State of Maryland; and

33 WHEREAS, Strong evidence suggests that this competitive advantage has had a  
34 direct negative effect on Maryland-based milk producers and distributors and their  
35 employees; now, therefore,

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
37 MARYLAND, That the Laws of Maryland read as follows:

3

1           **Article - Agriculture**

2           SUBTITLE 8. STATE MILK PRICING POLICY.

3 2-801.

4           (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6           (B) "BOOK AND RECORD" INCLUDES ACCOUNTS, CONTRACTS, MEMORANDA,  
7 DOCUMENTS, PAPERS, CORRESPONDENCE, OR ANY OTHER DATA RELATING TO THE  
8 FLUID MILK BUSINESS ACTIVITIES OF A PERSON SUBJECT TO THIS SUBTITLE.

9           (C) "CONSUMER" MEANS AN INDIVIDUAL WHO PURCHASES FLUID MILK FOR  
10 HOUSEHOLD, PERSONAL, OR FAMILY PURPOSES.

11           (D) (1) "DISTRIBUTOR" MEANS ANY OF THE FOLLOWING PERSONS AS  
12 DETERMINED BY THE SECRETARY:

13                         (I) A PERSON WHO PASTEURIZES OR PACKAGES MILK OR  
14 PROCESSES MILK INTO FLUID MILK;

15                         (II) A PERSON WHO SELLS OR MARKETS PROCESSED FLUID MILK  
16 AT WHOLESALE; OR

17                         (III) A PERSON WHO PURCHASES, MARKETS, OR HANDLES  
18 PROCESSED MILK FOR WHOLESALE RESALE AS FLUID MILK IN THE STATE.

19           (2) "DISTRIBUTOR" DOES NOT INCLUDE A RETAIL SELLER.

20           (E) (1) "FLUID MILK" MEANS A MILK PRODUCT IN FLUID OR FROZEN FORM  
21 CONTAINING LESS THAN 9% BUTTERFAT.

22           (2) "FLUID MILK" INCLUDES:

23                         (I) MILK, SKIM MILK, LOWFAT MILK, MILK DRINKS, BUTTERMILK,  
24 AND FILLED MILK; AND

25                         (II) ANY PRODUCTS THAT ARE FLAVORED, CULTURED, MODIFIED  
26 WITH NONFAT MILK SOLIDS, STERILIZED, CONCENTRATED TO NOT MORE THAN 50%  
27 TOTAL MILK SOLIDS, OR RECONSTITUTED.

28           (F) "LICENSEE" MEANS A FLUID MILK DISTRIBUTOR LICENSED BY THE  
29 SECRETARY.

30           (G) "MARKET" MEANS AN AREA DESIGNATED BY THE SECRETARY AS A  
31 MARKETING AREA.

32           (H) "PERSON" MEANS AN INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION,  
33 COOPERATIVE, OR OTHER LEGAL ENTITY.

34           (I) "PRESUMED COST" MEANS THE COST TO A DISTRIBUTOR OR RETAIL  
35 SELLER, AS DETERMINED BY THE SECRETARY, IN THE PRODUCTION, PROCESSING,  
36 DISTRIBUTION, AND HANDLING OF FLUID MILK.

4

1 (J) "PRODUCER" MEANS A PERSON WHO PRODUCES OR SELLS GRADE A RAW  
2 MILK APPROVED BY A DULY CONSTITUTED REGULATORY AGENCY FOR FLUID  
3 CONSUMPTION AS GRADE A MILK.

4 (K) "RETAIL SELLER" MEANS A GROCERY STORE, DAIRY PRODUCTS STORE,  
5 OR A SIMILAR MERCANTILE ESTABLISHMENT WHICH SELLS FLUID MILK TO  
6 CONSUMERS FOR CONSUMPTION OFF-PREMISES.

7 (L) "SANITARY REGULATIONS" INCLUDES ALL SANITARY LAWS,  
8 ORDINANCES, AND REGULATIONS RELATING TO THE PRODUCTION, HANDLING,  
9 TRANSPORTATION, DISTRIBUTION, AND SALE OF FLUID MILK.

10 2-802.

11 (A) (1) THE GOVERNOR SHALL APPOINT AN ADVISORY COMMITTEE ON  
12 MILK PRICING.

13 (2) THE ADVISORY COMMITTEE SHALL CONSIST OF SEVEN MEMBERS  
14 INCLUDING:

15 (I) FOUR CONSUMERS WHO DO NOT HAVE A FINANCIAL INTEREST  
16 IN THE DISTRIBUTION, PRODUCTION, OR RETAIL SALE OF FLUID MILK OR MILK  
17 PRODUCTS;

18 (II) ONE PRODUCER;

19 (III) ONE DISTRIBUTOR WHO IS NOT ALSO A PRODUCER; AND

20 (IV) ONE RETAIL SELLER.

21 (B) (1) THE TERM OF A MEMBER IS 4 YEARS.

22 (2) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE  
23 TERMS.

24 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
25 SUCCESSOR IS APPOINTED AND QUALIFIES.

26 (C) (1) THE MEMBERS SHALL ANNUALLY ELECT A CHAIRPERSON FROM  
27 AMONG THE MEMBERS OF THE COMMITTEE.

28 (2) THE COMMITTEE SHALL MEET AT THE TIME AND PLACE THAT THE  
29 CHAIRPERSON DETERMINES.

30 (D) A MEMBER OF THE COMMITTEE:

31 (1) MAY NOT RECEIVE COMPENSATION; BUT

32 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
33 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

34 (E) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE  
35 COMMITTEE.

5

1 2-803.

2 (A) IN CONSULTATION WITH THE ADVISORY COMMITTEE ON MILK PRICING  
3 AND AS PROVIDED IN THIS SECTION, THE SECRETARY SHALL DEFINE OR ADJUST  
4 MARKETS, DETERMINE THE PRESUMED COST OF FLUID MILK, AND DETERMINE THE  
5 PRICE TO BE RECEIVED BY PRODUCERS FOR MILK PURCHASED FOR THE  
6 MANUFACTURE OF FLUID MILK.

7 (B) (1) THE SECRETARY SHALL DEFINE OR ADJUST BY REGULATION ONE  
8 OR MORE FLUID MILK MARKETS.

9 (2) IN DEFINING OR ADJUSTING A FLUID MILK MARKET, THE  
10 SECRETARY SHALL CONSIDER:

11 (I) PREVAILING GRADE A AND FLUID MILK PRICES IN THE  
12 SURROUNDING AREA AS DETERMINED BY THE FEDERAL MILK MARKETING  
13 ORDERS; AND

14 (II) OTHER FACTORS THE SECRETARY CONSIDERS RELEVANT.

15 (C) (1) THE SECRETARY SHALL DETERMINE THE PRESUMED COST OF  
16 FLUID MILK IN A MARKET BELOW WHICH:

17 (I) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A  
18 DISTRIBUTOR MAY NOT SELL FLUID MILK; AND

19 (II) A RETAIL SELLER MAY NOT SELL FLUID MILK.

20 (2) (I) IN DETERMINING THE PRESUMED COST IN A MARKET FOR ANY  
21 QUANTITY OF FLUID MILK, THE SECRETARY SHALL BE GUIDED BY ALL PERTINENT  
22 ECONOMIC FACTORS RELEVANT TO PRODUCTION, PROCESSING, AND DISTRIBUTION  
23 OF FLUID MILK AS AFFECTING THE PUBLIC INTEREST IN MAINTAINING AN  
24 ADEQUATE SUPPLY OF FLUID MILK IN THE STATE, INCLUDING:

25 1. COMPLIANCE WITH ALL SANITARY REGULATIONS IN  
26 FORCE IN THE MARKET;

27 2. NECESSARY OPERATION, PROCESSING, STORAGE, AND  
28 DELIVERY CHARGES;

29 3. PREVAILING MILK PRICES IN THE REGION; AND

30 4. FOR DETERMINING THE PRESUMED COSTS TO RETAIL  
31 SELLERS ONLY, IN-STORE HANDLING COSTS.

32 (II) IN ADDITION TO THE FACTORS LISTED IN SUBPARAGRAPH (I)  
33 OF THIS PARAGRAPH, THE SECRETARY MAY CONSIDER OTHER FACTORS IN  
34 DETERMINING THE PRESUMED COST, INCLUDING THE WELFARE OF THE GENERAL  
35 PUBLIC.

36 (3) THE SECRETARY SHALL:

37 (I) ADOPT OR AMEND BY REGULATION A FORMULA  
38 INCORPORATING THE ECONOMIC FACTORS DESCRIBED IN PARAGRAPH (2) OF THIS

6

1 SUBSECTION WHICH WILL ADJUST AUTOMATICALLY THE PRESUMED COSTS IN A  
2 MARKET; AND

3 (II) PROVIDE AT REGULAR INTERVALS FOR THE AUTOMATIC  
4 ADJUSTMENT OF THE PRESUMED COSTS ACCORDING TO THE RESULT OBTAINED  
5 UNDER THE FORMULA ADOPTED UNDER THIS PARAGRAPH.

6 (4) THE SECRETARY IS NOT REQUIRED TO PROVIDE BY REGULATION  
7 FOR AN AUTOMATIC ADJUSTMENT OF PRESUMED COSTS UNDER PARAGRAPH (3)(II)  
8 OF THIS SUBSECTION.

9 (D) (1) THE SECRETARY SHALL ESTABLISH BY REGULATION PRODUCER  
10 PRICES IN A MARKET TO BE PAID BY A PERSON PURCHASING MILK FROM A  
11 PRODUCER FOR THE MANUFACTURE OF FLUID MILK.

12 (2) IN SETTING A PRODUCER PRICE IN A MARKET, THE SECRETARY  
13 SHALL CONSIDER:

14 (I) PREVAILING GRADE A AND FLUID MILK PRICES IN THE  
15 SURROUNDING AREA AS DETERMINED BY THE FEDERAL MILK MARKETING  
16 ORDERS;

17 (II) THE PRICES OF GRADE A AND FLUID MILK IN NEIGHBORING  
18 STATES THAT AFFECT MARKETS IN THE STATE; AND

19 (III) OTHER FACTORS THE SECRETARY CONSIDERS RELEVANT.

20 (E) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
21 A DISTRIBUTOR MAY SELL FLUID MILK AT A PRICE BELOW THE PRESUMED COST  
22 ONLY IF THE DISTRIBUTOR DEMONSTRATES TO THE SECRETARY THAT ITS COSTS  
23 ARE LOWER THAN THE PRESUMED COST DETERMINED UNDER THIS SECTION.

24 (II) THE DISTRIBUTOR SHALL NOTIFY THE SECRETARY OF THE  
25 MARKET IN WHICH IT INTENDS TO SELL FLUID MILK AT A PRICE THAT IS LESS THAN  
26 THE PRESUMED COST.

27 (2) IF A DISTRIBUTOR IS AUTHORIZED BY THE SECRETARY TO SELL  
28 FLUID MILK AT A PRICE THAT IS LESS THAN THE PRESUMED COST IN A MARKET  
29 DESIGNATED BY THE DISTRIBUTOR UNDER PARAGRAPH (1)(II) OF THIS  
30 SUBSECTION, OTHER DISTRIBUTORS MAY ALSO SELL FLUID MILK AT THE SAME  
31 PRICE AND IN THE SAME MARKETS WITHOUT FULFILLING THE REQUIREMENT OF  
32 PARAGRAPH (1)(I) OF THIS SUBSECTION.

33 (3) FOR THE PURPOSE OF ENSURING COMPLIANCE WITH THIS  
34 SUBSECTION, THE SECRETARY SHALL ADOPT BY REGULATION:

35 (I) THE PROCEDURES BY WHICH A DISTRIBUTOR MAY:

36 1. DEMONSTRATE TO THE SECRETARY THAT ITS COSTS ARE  
37 LOWER THAN THE PRESUMED COST DETERMINED UNDER THIS SECTION;

38 2. INFORM THE SECRETARY OF THE MARKETS IN WHICH IT  
39 INTENDS TO SELL FLUID MILK BELOW THE PRESUMED COST; AND

7

1                                   3. INFORM THE SECRETARY OF ITS INTENT TO SELL FLUID  
2 MILK BELOW THE PRESUMED COST AS PROVIDED IN PARAGRAPH (2) OF THIS  
3 SUBSECTION; AND

4                                   (II) FACTORS THE SECRETARY SHALL CONSIDER IN DECIDING  
5 WHETHER TO AUTHORIZE A DISTRIBUTOR TO SELL MILK BELOW THE PRESUMED  
6 COST.

7 2-804.

8                   (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
9 PERSON MAY NOT DISTRIBUTE, MARKET, OR PROCESS MILK IN ANY MARKET AREA  
10 DEFINED BY THE SECRETARY UNLESS THE PERSON IS LICENSED BY THE  
11 SECRETARY.

12                   (2) SCHOOLS, RETAIL SELLERS, INSTITUTIONS, AND MILK PRODUCERS  
13 ARE NOT REQUIRED TO BE LICENSED BY THE SECRETARY.

14                   (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN APPLICANT FOR A  
15 LICENSE REQUIRED UNDER THIS SECTION SHALL:

16                   (1) SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM THAT  
17 THE SECRETARY REQUIRES; AND

18                   (2) PAY TO THE SECRETARY A \$100 LICENSING FEE.

19                   (C) (1) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN  
20 A LICENSE UNDER THIS SUBTITLE AND A PERMIT UNDER TITLE 21, SUBTITLE 4 OF  
21 THE HEALTH - GENERAL ARTICLE, THE SECRETARY AND THE SECRETARY OF  
22 HEALTH AND MENTAL HYGIENE SHALL COORDINATE ALL MATTERS RELATED TO  
23 THE ISSUANCE AND RENEWAL OF THE LICENSE AND PERMIT IN ORDER TO  
24 MINIMIZE THE EXPENSE AND PAPERWORK FOR THE PERSON.

25                   (2) THE SECRETARY MAY NOT DENY, SUSPEND, OR REVOKE A LICENSE  
26 ISSUED UNDER THIS SUBTITLE BECAUSE OF A VIOLATION OF TITLE 21, SUBTITLE 4  
27 OF THE HEALTH - GENERAL ARTICLE.

28                   (D) FOR ANY PERSON TO WHOM SUBSECTION (C)(1) OF THIS SECTION DOES  
29 NOT APPLY, A LICENSE EXPIRES ON JUNE 30 OF EACH YEAR, UNLESS THE LICENSE IS  
30 RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN SUBSECTION (E) OF THIS  
31 SECTION.

32                   (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, BEFORE THE  
33 LICENSE EXPIRES, THE LICENSEE MAY PERIODICALLY RENEW THE LICENSE FOR AN  
34 ADDITIONAL TERM, IF THE LICENSEE:

35                   (1) IS OTHERWISE ENTITLED TO BE LICENSED;

36                   (2) PAYS TO THE SECRETARY THE \$100 RENEWAL FEE; AND

37                   (3) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE  
38 FORM THAT THE SECRETARY REQUIRES.

8

1 (F) EACH LICENSEE SHALL PROVIDE THE SECRETARY WITH REPORTS  
2 CONTAINING ANY INFORMATION THE SECRETARY REQUIRES FOR PURPOSES OF  
3 ENSURING COMPLIANCE WITH THIS SUBTITLE.

4 (G) (1) THE SECRETARY MAY DENY, SUSPEND, OR REVOKE ANY LICENSE  
5 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD FOR:

6 (I) A VIOLATION OF A PROVISION OF THIS SUBTITLE; OR

7 (II) A VIOLATION OF A REGULATION OF THE SECRETARY.

8 (2) DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE MAY BE  
9 IMPOSED IN ADDITION TO OR IN LIEU OF A CIVIL PENALTY IMPOSED UNDER §  
10 2-808(B) OF THIS SUBTITLE.

11 2-805.

12 (A) THE SECRETARY SHALL ADOPT BY REGULATION A SYSTEM OF  
13 ACCOUNTING USING GENERALLY ACCEPTED ACCOUNTING PRACTICES FOR THE  
14 PURPOSE OF ENSURING COMPLIANCE WITH THIS SUBTITLE.

15 (B) FOR ANY ACTIVITY REGULATED UNDER THIS SUBTITLE, EACH  
16 DISTRIBUTOR OF FLUID MILK SHALL ADOPT AND USE THE ACCOUNTING SYSTEM  
17 ADOPTED BY THE SECRETARY.

18 (C) THE BOOKS AND RECORDS OF EACH DISTRIBUTOR, AFTER REASONABLE  
19 NOTICE, SHALL BE OPEN TO INSPECTION BY THE SECRETARY OR THE SECRETARY'S  
20 AGENT DURING REGULAR BUSINESS HOURS.

21 (D) THE SECRETARY SHALL AUDIT THE BOOKS AND THE RECORDS OF EACH  
22 DISTRIBUTOR AT REASONABLE INTERVALS AS DETERMINED BY THE SECRETARY.

23 2-806.

24 (A) EXCEPT AS PROVIDED IN § 2-803(E) OF THIS SUBTITLE, A PERSON MAY  
25 NOT BUY OR SELL FLUID MILK AT A PRICE THAT IS BELOW THE PRESUMED COST.

26 (B) A PERSON MAY NOT BUY OR SELL MILK PRODUCED BY A PRODUCER FOR  
27 MANUFACTURE INTO FLUID MILK AT A PRICE THAT IS BELOW THE PRODUCER COST  
28 ESTABLISHED UNDER § 2-803(D) OF THIS SUBTITLE.

29 (C) A VIOLATION OF THE PROVISIONS OF SUBSECTION (A) OR (B) OF THIS  
30 SECTION, INCLUDES THE FOLLOWING:

31 (1) THE OFFER OR ACCEPTANCE OF A DISCOUNT, DEDUCTION,  
32 PREMIUM, REBATE, FREE SERVICE, TRADING STAMPS, ADVERTISING ALLOWANCE,  
33 EXTENSION OF CREDIT, OTHER INCENTIVES, OR COMBINATION OF THE SALE OF  
34 MILK WITH ANOTHER COMMODITY OR SERVICE, IN ANY COMBINATION WHICH  
35 EFFECTIVELY LOWERS THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE  
36 PRESUMED COST OR PRODUCER PRICE; AND

37 (2) THE OFFER OR ACCEPTANCE OF MILK USING FALSE OR ERRONEOUS  
38 WEIGHT, BUTTERFAT, OR APPROPRIATE MILK COMPONENT TESTS FOR THE

9

1 PURPOSE OF LOWERING THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE  
2 PRESUMED COST OR PRODUCER PRICE.

3 2-807.

4 (A) (1) THERE IS A MARYLAND MILK FUND.

5 (2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS  
6 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE  
8 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

9 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME  
10 MANNER AS OTHER STATE FUNDS.

11 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT  
12 OF THE FUND.

13 (6) THE FUND SHALL BE USED ONLY TO PROVIDE FUNDING FOR  
14 PURPOSES AUTHORIZED UNDER THIS SUBTITLE.

15 (B) THE SECRETARY SHALL DEVELOP A PROCEDURE FOR COLLECTING  
16 MONTHLY ASSESSMENTS FROM PRODUCERS AND DISTRIBUTORS.

17 (C) (1) THE MONTHLY ASSESSMENT SHALL BE PAID AT THE TIME THE  
18 DISTRIBUTOR PAYS THE PRODUCER FOR THE FLUID MILK.

19 (2) THE ASSESSMENT FROM THE PRODUCERS AND DISTRIBUTORS:

20 (I) MAY NOT EXCEED 4 CENTS PER 100 POUNDS OF FLUID MILK  
21 FROM EACH; AND

22 (II) SHALL BE COLLECTED FROM EACH IN EQUAL AMOUNTS.

23 (D) THE ASSESSMENTS COLLECTED UNDER THIS SECTION SHALL BE PAID  
24 INTO THE FUND AND SHALL BE USED ONLY FOR THE PURPOSES AUTHORIZED  
25 UNDER THIS SUBTITLE.

26 2-808.

27 (A) (1) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION  
28 AGAINST A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE.

29 (2) IN AN ACTION FOR AN INJUNCTION UNDER THIS SECTION, ANY  
30 FINDING OF THE SECRETARY AFTER A HEARING IS EVIDENCE OF EACH FACT THE  
31 SECRETARY DETERMINES.

32 (3) ON A SHOWING THAT A PERSON IS VIOLATING ANY PROVISION OF  
33 THIS SUBTITLE, A COURT SHALL GRANT AN INJUNCTION WITHOUT REQUIRING A  
34 SHOWING OF A LACK OF AN ADEQUATE REMEDY AT LAW.

35 (4) AN INJUNCTION GRANTED UNDER THIS SECTION SHALL BE LIMITED  
36 TO ORDERS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

10

1 (B) (1) THE SECRETARY MAY IMPOSE A CIVIL PENALTY OF NOT MORE  
2 THAN \$5,000 FOR A VIOLATION OF THIS SUBTITLE.

3 (2) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SECTION  
4 SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

5 2-809.

6 (A) A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY UNDER  
7 THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF AN ORDER OF THE SECRETARY BY  
8 WHICH THE SECRETARY:

9 (1) REFUSES TO ISSUE OR REISSUE A LICENSE;

10 (2) SUSPENDS OR REVOKES A LICENSE;

11 (3) IMPOSES A CIVIL PENALTY UNDER § 2-808(B) OF THIS SUBTITLE; OR

12 (4) AUTHORIZES OR REFUSES TO AUTHORIZE A DISTRIBUTOR TO SELL  
13 MILK BELOW THE PRESUMED COST AS PROVIDED IN § 2-803(E) OF THIS SUBTITLE.

14 (B) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF A  
15 FINAL DECISION IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

16 2-810.

17 (A) THE SECRETARY MAY:

18 (1) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS  
19 SUBTITLE;

20 (2) COOPERATE WITH OTHER STATES TO PREVENT DISRUPTIVE MILK  
21 MARKETING PRACTICES;

22 (3) INVESTIGATE ALL MATTERS PERTAINING TO ENFORCEMENT OF  
23 THIS SUBTITLE; AND

24 (4) REQUIRE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND OTHER  
25 DOCUMENTARY EVIDENCE, AND EXAMINE THE DOCUMENTS IN RELATION TO ANY  
26 MATTER WHICH THE SECRETARY MAY INVESTIGATE OR HEAR.

27 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
28 BOOKS AND RECORDS OF ANY PERSON EXAMINED BY THE SECRETARY MAY NOT BE  
29 RELEASED TO ANY PERSON, EXCEPT THE PERSON WHO SUBMITTED THE BOOK AND  
30 RECORD TO THE SECRETARY.

31 (2) THE SECRETARY MAY RELEASE THE BOOKS AND RECORDS OF ANY  
32 PERSON EXAMINED BY THE SECRETARY TO AN AGENCY OF ANOTHER STATE, IF:

33 (I) THE STATE AGENCY HAS THE STATUTORY AUTHORITY TO  
34 AUDIT OR EXAMINE THE BOOKS AND RECORDS OF A MILK DISTRIBUTOR;

35 (II) THE STATE AGENCY HAS THE AUTHORITY TO PROTECT THE  
36 CONFIDENTIALITY OF THE BOOKS AND RECORDS RELEASED BY THE SECRETARY;

11

1 (III) THE STATE'S LAW HAS A RECIPROCAL PROVISION FOR  
2 ALLOWING THE SECRETARY TO EXAMINE BOOKS AND RECORDS OF MILK  
3 PRODUCERS IN THAT STATE; AND

4 (IV) THE RELEASE OF THE BOOKS AND RECORDS IS IN THE BEST  
5 INTEREST OF THE STATE.

6 **Article - Health - General**

7 21-415.

8 (C) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN A  
9 PERMIT UNDER THIS SUBTITLE AND A LICENSE UNDER TITLE 2, SUBTITLE 8 OF THE  
10 AGRICULTURE ARTICLE, THE SECRETARY AND THE SECRETARY OF AGRICULTURE  
11 SHALL COORDINATE ALL MATTERS RELATED TO THE ISSUANCE AND RENEWAL OF  
12 THE PERMIT AND LICENSE IN ORDER TO MINIMIZE THE EXPENSE AND PAPERWORK  
13 FOR THE PERSON.

14 21-418.

15 (E) THE SECRETARY MAY NOT DENY, SUSPEND, OR REVOKE A PERMIT  
16 ISSUED UNDER THIS SUBTITLE BECAUSE OF A VIOLATION OF TITLE 2, SUBTITLE 8 OF  
17 THE AGRICULTURE ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
19 read as follows:

20 **Article - Health - General**

21 21-426.

22 (a) In this section, "sell-by period" means the length of time a Grade A milk  
23 product may be kept for sale.

24 (b) (1) After a public hearing, the Secretary shall adopt rules and regulations  
25 that establish a method for conspicuously marking, on the Grade A milk product  
26 container, the last date on which the product may be sold.

27 (2) Each Grade A milk product container shall be marked as required by  
28 rules and regulations adopted under this subtitle.

29 (c) [A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A Grade  
30 A milk product that is cooled to, packaged, and stored at 45 degrees Fahrenheit or less  
31 before it is purchased by or delivered to the ultimate consumer has a sell-by period of 14  
32 days.

33 (D) (1) A GRADE A MILK PROCESSOR MAY ESTABLISH A SELL-BY PERIOD  
34 THAT IS LONGER THAN 14 DAYS.

35 (2) IF A GRADE A MILK PROCESSOR ESTABLISHES A SELL-BY PERIOD  
36 THAT IS LONGER THAN 14 DAYS, THE PROCESSOR SHALL SUBMIT TO THE  
37 SECRETARY AN INDICATOR SHELF-LIFE STUDY THAT IS ACCEPTABLE TO THE  
38 SECRETARY WHICH DEMONSTRATES THAT THE GRADE A MILK PRODUCT HAS A  
39 SHELF-LIFE EQUAL TO THE SELL-BY PERIOD PLUS AN ADDITIONAL 7 DAYS.

12

1           SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial  
2 members of the Advisory Committee on Milk Pricing shall expire as follows:

3                   (1) two members in 1999;

4                   (2) two members in 2000; and

5                   (3) three members in 2001.

6           SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing  
7 obligation or contract right may not be impaired in any way by this Act.

8           SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this  
9 Act shall remain effective until the 90th day after the Secretary of Agriculture certifies in  
10 a letter to the Director of the Department of Legislative Reference that, to the  
11 satisfaction of the Secretary, either the Commonwealth of Pennsylvania or the  
12 Commonwealth of Virginia has repealed the portion of its law that provides for the  
13 establishment of milk prices by a state commission or board or any other entity authorized  
14 by law to establish milk prices within the Commonwealth. After receiving the letter from  
15 the Secretary, the Director of Legislative Reference shall take the appropriate steps to  
16 inform the members of the General Assembly of the abrogation of this Act and shall  
17 direct the publisher of the Annotated Code of Maryland to make any changes in the  
18 Annotated Code of Maryland necessary to effectuate the termination provision of this  
19 section.

20           SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1997.